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Elizabeth Ross-Given

From: Johnson Carter, Meghan <mjohnson@motleyrice.com>
Sent: Monday, March 12, 2012 3:37 PM
To: Elizabeth Ross-Given
Subject: FW: Digitek SEP & Releases

I want to say yes but I'm sure that as soon as I do then it won't be right ...

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From: Spizer, Gregory S. [mailto:gspizer@anapolschwartz.com]
Sent: Monday, March 12, 2012 3:29 PM
To: Johnson Carter, Meghan
Cc: Racine, Amber
Subject: RE: Digitek SEP & Releases

Hi Meghan –

Thanks for the email update. We have one Digitek claimant who is deceased. I believe the release was signed correctly and we have not heard otherwise from the special master – can I presume that the release is ok?

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 **Anapol Schwartz**
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From: Johnson Carter, Meghan [mailto:mjohnson@motleyrice.com]
Sent: Monday, March 12, 2012 3:08 PM
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Cc: Thompson, Fred; Carl@facslaw.com; hfbell@belllaw.com; Scott, Carmen; Palmer, Staci; Jaromin, Michelle
Subject: Digitek SEP & Releases

Counsel,

The PSC filed a motion last week for approval of a Small Estate Procedure for use in the Digitek settlement. This procedure is similar to the SEP used in Vioxx a& Avandia. Judge Goodwin entered an order today granting the motion. The order, procedure and relevant forms are attached to this email. This order should alleviate some of the problems associated with cases that have deceased claimants and awards that do not justify the expense of opening an estate.

I have spoken with the special master's office and was told that most of the releases related to deceased claimants have been incorrect. Although it is not indicated on the form, Defendants are requiring that the signature include the signor's capacity/description on Page 4 of the Release. The special master has extended the due date on the releases as necessary to take care of these issues. However, please keep the special master updated on your progress.

As stated above, to prevent rejection of the release, please make sure the signature contains the signer's capacity. For example, "Jane Doe as Exec. Of the Est. of John Doe" or "Jane Doe as Surviving Spouse of John Doe, deceased." If you submitted a release without the signatory description on page 4, please amend by typing or handwriting the phrase next to the signature and resubmit the last page. All claims for deceased claimants **must** have a signatory description of some sort. Please do not use specific legal descriptions such as "estate of" or "personal representative" unless they are applicable and correct. If an estate has not been opened, then use the correct terminology, examples include "deceased", "heir", "surviving spouse" etc.. Defense counsel is actually reviewing the releases and rejecting them if they are not signed to their satisfaction. They are also cross-checking the initial pleadings to see what was listed in the caption.

If you have any questions about the wording of a release, the order or the forms please let me know. We are working on getting the forms in a fillable format and I will circulate both forms when they are complete. Thank you.

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